

CAFO PROGRAM STAFF HANDBOOK

Compliance & Enforcement



Wisconsin Department of Natural Resources

DRAFT – September 2016

"This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance cannot be relied upon and does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts."

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Purpose Overview

To guide department staff in determining appropriate enforcement actions for manure and process wastewater discharge or runoff events involving large animal feeding operations (over 1000 AU, aka. CAFOs).

Minimization of adverse environmental impacts is a high priority and department staff should make every effort to document and immediately respond to complaints and observations of manure discharge events for follow up investigation and remedial action.

CAFO staff have the primary responsibility for investigating and documenting complaints relating to all large animal feeding operations (permitted and non-permitted).

Department staff should respond immediately to a complaint of a manure or agricultural process wastewater discharges if they believe such action is necessary to prevent, halt or minimize the effects of a discharge to waters of the state or to ensure collection and documentation of evidence in a timely fashion.

Timely and appropriate enforcement actions shall be taken when permit violations occur and/or livestock facilities are failing to apply for a permit as the law requires them to do so when at or over 1000 animal units.

This document summarizes CAFO facility compliance measurement and documentation tools available for staff and expectations for appropriate timely enforcement measures.

General Documentation Information

Documentation is key for determining and documenting permit compliance and noncompliance. Below is a general summary of file management and expectations for staff on documentation of compliance oversight conducted.

General File Organization / Maintenance Tips

- Keep files neat and organized
- Do not include hand-written notes in files (do not write on original documents)
- Discard draft documents once final is completed (does not apply to draft permit that gets public noticed, this should be retained in file)
- Arrange files in chronological order (typically most current information on top)
- Official permit file should have all important information (need to print items for paper file, not just save on hard drive)
- Using separate sub-folders in permit files is recommended
 - Permit Documents ((See Appendix ___ for checklist))
 - Permit Application Materials
 - Compliance / Enforcement File
 - General Correspondence
 - Engineering
 - Nutrient Management
- Large items such as NMP or engineering documents may be kept in file on DVD/CD or USB drive—label appropriately
- Staple related items together (i.e. NON letter and associated follow-up provided by permittee)
- Any items stored on Share point Site need not be printed, ETC. (same goes for SWAMP docs?)

Documentation Types

- E-mail correspondence
- Phone conversation memo
- File memos associated with general file review, engineering review, nutrient management review, etc.
- Letters (General, Enforcement, NMP, Engineering, etc.)
- Inspection reports
- Water sample reports

- Case activity reports (CAR)
- Completed checklists
- Photo logs
- SWAMP or other tracking system reports / data entry

E-mail Correspondence:

Email communication tends to be the most prevalent way to communicate either within the agency as well as with outside stakeholders. Although all emails are public record, it is important to recognize that not all email correspondence rises to the level of printing for the permanent file. Examples of email correspondence that should be printed for the file includes:

- A summary of a phone conversation where compliance dates or actions were discussed and agreed upon.
- Reminders of compliance action due dates to permittee.
- Any correspondence received with photos or records requested by the Department.
- Any correspondence from consultants regarding engineering or nutrient management plan information.
- Approvals for field application, temporary feed storage, headland stacking sites, etc.

Phone Conversation Memos:

Phone conversations are often a more effective way to communicate than email. Documenting important conversations is important. Similar to above, any conversation that involves a decision, compliance agreement, a due date or other practices should be documented in the file. Either an email summary of the phone conversation shall be printed or a phone memo shall be filled out. Phone memos can be handwritten or typed up. See Appendix ___ for phone log template and example. The Correspondence/Memorandum template in Appendix ___ can be used to summarize phone conversations.

File Memos:

Often times, staff review the file for purpose of confirming compliance during last permit term as well as to become familiar with facility if newly assigned. Documenting file review is sometimes necessary to include in enforcement actions. The Correspondence/Memorandum template can be used to summarize file review.

Letters:

Formal written correspondence is important for several compliance actions. The agricultural runoff program has flexibility with means of communication; however, the following require formal letter documentation:

- Any enforcement communications (Notice of Noncompliance, Notice of Violation, Compliance Agreements, etc.)
- Any formal letters relating to permitting (permit coverletter, compliance addendums, sample point descriptions, etc.)
- Formal processes and reminder letters (permit application status, engineering and NMP letters, etc.)

Inspection Reports:

Inspection reports are formal documentation required for any inspections conducted regarding production site or land application compliance. Third party narrative format should be used. Explain your observations in report in a neutral tone. Include as many photos as needed to show important items, use proper sizing so features are visible when printed out. See Appendix ___ for template inspection report format and examples. The following information is typically documented in an inspection report:

- Date of final report (should say "draft" until finalized)
- Inspection Date / Times
- Inspection Type (Permit Reissue, Compliance, Complaint, Land Application)
- Operation / Owner Name

- WPDES Permit No. (if applicable)
- Operation Address or Land Application Site Description
- On-Site Representatives and Titles
- DNR Staff / Report Writer
- Air Photo Overview with Labeled Features
- Summary of Relevant Conversations
- Summary of Records Review Conducted
- Summary of Observations with Photos
- Photos with Descriptions (include direction facing if applicable)
- Water Sample Analysis Information (if applicable)
- Summary of Violations (if applicable, can also be listed in letter correspondence)
- Substantial Compliance Determination (CAFO reissuance only)

Remember to document all relevant compliance items (good and bad). For example, if you respond to a complaint and no compliance issues were found, a report should still be written and included in file to show inspection findings (REMINDER: All CAFO inspection reports shall be entered in SWAMP, see appendix ___ for directions).

Staff Compliance Oversight for CAFOs

CAFO staff are expected to determine and monitor compliance at permitted CAFOs through file reviews, review of reports, standard compliance inspections, permit reissue inspections and complaint response.

NOTE: Follow the appropriate programmatic standard operating procedures for site inspections, safety and documentation, including SOP #16 – Agricultural Compliance Inspections and Complaint Response for Manure and Process Wastewater and Documentation Guidance for Agricultural Compliance Inspections and Complaint Response for Manure and Process Wastewater.

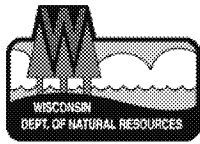
Staff tools available for gathering information to determine compliance include the inspection checklists for production site and land application inspections. See pages ___.

Substantial Compliance – needs edits

Complete inspections and file review is required when determining substantial compliance with permit. The entire checklist shall be filled out along with a completing an inspection report. Follow-up materials and/or actions by facility may be necessary to determine or deem the facility in substantial compliance with permit.

The substantial compliance determination in SWAMP shall be filled out prior to public notice of intent to reissue permit. See appendix ___ for blank form and example of completed form.

Add more...



WDNR CAFO Livestock Facility Inspection Checklist

Inspection Purpose: ☐ Complaint ☐ Spill ☐ Compliance ☐ Reissue ☐ Other: _____

Inspection Type: ☐ Production Site ☐ Land Application Site ☐ Other: _____

General Information				
Facility Name (LLC, Inc., Corp, Partnership, sole proprietorship, etc.)			WPDES Permit #	
Inspection Date	DNR Inspector Name(s)		County Inspector (if present)	
Location or name of site(s) inspected				
General description of current and past weather conditions (precipitation, temperature, etc.)				
Facility Representatives Present (update contact info on file if necessary)	Name		Email	Phone
	Name		Email	Phone
Compliance Information (to be entered into database tracking)				
Yes	No	NA	PRODUCTION SITE QUESTIONS	Comments/Notes (List identification of active runoff controls, storages, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1. Are there current or past indicators of discharges/overflows from feedlot runoff control systems present? If no animals outdoors, check "NA."	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2. Are feedlot runoff control systems well-maintained, in good repair and in compliance with permit requirements?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3. Are there current or past indicators of discharges/overflows from solid and liquid waste storage facilities present? (includes headland stacking sites) List in comments if any overflows from liquid storage facilities have occurred.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4. Are waste storage structures well-maintained, in good repair, and in compliance with permit requirements?	

Yes	No	NA	PRODUCTION SITE QUESTIONS (Continued)	Comments/Notes (List identification of active runoff controls, storages, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5. Do all liquid waste storage facilities have permanent markers installed?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6. Are there current or past indicators of discharges of process wastewater present? List all process wastewater sources in comments.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7. Are there current or past indicators of discharges/overflows from feed storage areas and associated runoff control systems present?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8. Are feed storage areas and runoff control systems well-maintained, in good repair and in compliance with permit requirements?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9. Are there current or past indicators of discharges/improper management associated with animal mortalities present?	
Yes	No	NA	ANCILLARY SERVICE AND STORAGE AREAS	Comments/Notes
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10. Are preventative maintenance actions and visual inspections occurring to minimize pollutant discharges from ancillary service and storage areas (i.e. storm water conveyance systems)?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11. Are management practices implemented and sufficient vegetative cover maintained at CAFO outdoor vegetated areas?	
Yes	No	NA	RECORD-KEEPING/REPORTING QUESTIONS	Comments/Notes (Additional file review may be necessary for this section)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12. Does the permittee have current WPDES permit and Nutrient Management Plan onsite?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13. Can the permittee produce up-to-date copies of inspection records that are required to be retained?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14. Has the permittee provided adequate documentation that the facility has a minimum of 180 days of liquid manure storage capacity?	

Yes	No	NA	RECORD-KEEPING/REPORTING QUESTIONS (Continued)	Comments/Notes (Additional file review may be necessary for this section)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15. Can the permittee provide evidence (i.e. spreading and land application inspection records) that the permittee followed the nutrient management plan requirements?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	16. Is there evidence (from DNR land application inspection findings) that the nutrient management plan has been implemented and requirements met? If field application sites not inspected, check "NA."	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17. Can the permittee produce up-to-date copies of their emergency response and monitoring and inspection plans?	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	18. Is the permittee up to date on required reporting and actions as specified in the Schedule of Compliance and currently in compliance with all other permit components?	
Yes	No	NA	SUBSTANTIAL COMPLIANCE	Comments/Notes (List areas of concern and/or violations)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	19. Is the permittee in substantial compliance with the permit?	

Other notes, sketches, etc.:

Closing Discussion <i>(for staff reference only)</i>			
Questions	No	Yes	NA
<p>Were specific “potential violations” and “areas of concern” discussed with the facility representative?</p> <p>Name of facility representative: _____</p> <p>List the specific concerns discussed:</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Were interim control measure options discussed or proposed? If so, list:</p> <p>List any information the facility requested to be provided:</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water Sampling <i>(if applicable)</i>			
Questions	No	Yes	NA
<p>Were samples taken at the facility? If yes, how many sets of samples were taken:</p> <p>Name of person taking samples:</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were split samples provided to the facility?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were samples iced? Were samples preserved (nutrients only)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Were chain of custody and lab slips filled out and signed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Were samples shipped to a lab? Shipping location:</p> <p>Time dropped off:</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Water Sampling Notes *(at minimum list sample point IDs, location description, water quality observations, time sample was collected):*

DNR CAFO Land Application Site Inspection Checklist

Inspection purpose: ☐ Complaint ☐ Audit/Compliance ☐ Spill/Runoff Event ☐ Other: _____

Inspection Date:	Application Date:	Permittee Name:
Field Location:	Field ID:	Applicator Name:
Application Rate:	Previous/current crop:	DNR Inspector Name(s):
Weather conditions: CURRENTLY RAINING RAIN FORECASTED DRY SNOWING		
Soil conditions: SATURATED FROZEN/SNOW-COVERED DAMP/WET DRY		

Application Method(s): SURFACE INCORPORATED INJECTED OTHER: _____				
Equipment Used: TRACTOR/TANKER SEMI TRUCK TRACTOR/HOSE OTHER: _____				
Any manure runoff (left field boundaries)?			YES	NO
If yes, circle resource(s) impacted:	SURFACE WATERS	WETLANDS	POTENTIAL GROUNDWATER	NONE
NOTES:				

Manure Setbacks and Restrictions (during non-frozen or snow covered conditions)	Requirement Met?		
100 feet from private wells (1000 feet to municipal wells when applicable)	YES	NO	NA
100 feet from other groundwater conduits	YES	NO	NA
25 feet from wetlands	YES	NO	NA
25 feet to surface waters/conduits to surface waters (incorporated or injected)	YES	NO	NA
100 feet setback to surface waters/conduits to surface waters (surface app)	YES	NO	NA
No manure spread in grassed waterways (non-conduits to surface waters)	YES	NO	NA
No excessive ponding or runoff within field boundaries	YES	NO	NA
Depth to groundwater greater than 24 inches (if checked, need to dig hole)	YES	NO	Not verified
Depth to bedrock greater than 24 inches (if checked, need to dig hole)	YES	NO	Not verified
All observed restrictive features labeled on existing restriction map	YES	NO	Not verified
Note: "NA" means the requirement does not apply due to absence of setback feature, method, etc.			
NOTES:			

Tile features observed (inlets/outlets/breathers)?	YES	NO
Outlets found?	YES	NO
Are tile features on restriction maps?	YES	NO
Setbacks to tile features met? (25 feet for incorp/inject; 100 feet for surface)	YES	NO
Outlet observations: FLOWING NOT FLOWING MANURE PRESENT NO MANURE PRESENT		
NOTES:		

Tillage and Erosion Features and Restrictions	Requirement Met?		
Are permanent grass waterways or buffers properly maintained?	YES	NO	NA
Are tillage setbacks being met? (minimum of 5 feet from surface waters)	YES	NO	NA
Does field appear to be managed to prevent excessive erosion / soil loss?	YES	NO	NA
NOTES:			

Manure Hauler Interview (if applicable):			
Name, title, company name:			
What operation are you hauling for?			
What application rate is being applied?			
What are the spreading setbacks:			
To private wells?			
To streams/waterways?			
To wetlands?			
To grassed waterways?			
Are drainage tile features present?	YES	NO	DON'T KNOW
Do you have copies of restriction maps? (Have them show you / take photo of it)	YES	NO	
Describe spill response procedures:			
Other Comments:			

FIELD SKETCH DRAWING (include approximate locations of: wells, streams/ditches, flow path pattern on field, tile features,

CAFO Compliance Report (DATE OF FINAL REPORT)



Inspection Date:

Inspection Type: Permit Reissue, Compliance, Complaint, Land Application, ETC.

Operation / Owner Name:

WPDES Permit No. (if applicable)

Operation Address OR Land Application Site Description:

On-Site Representative(s): NAME, TITLE

DNR Staff / Report Writer: NAME, TITLE

Summary of inspection purpose and who was present (full name and titles). Time of inspection, weather conditions, site access permission, etc.

Site Overview Diagram or Air Photo (show flow paths of drainage and/or pollutants) for each site inspected.

Use subheadings shown below for relevant compliance items

Description of observations

Photos of features under appropriate subheading labeled (make sure photos are sized at readable printable scale)

SITE OBSERVATIONS

Feedlot Runoff

Waste Storage Facilities

Feed Storage Area Runoff

Animal Mortality Disposal

Ancillary Service Areas

Record-keeping and Reporting

Summarize records review

SUMMARY

Substantial Compliance

Areas of Concern

Permit Violations

Action Items

Items for Next Permit Term

Stepped Enforcement Options

This section provides guidance for staff on levels of enforcement actions appropriate for CAFO permit violations. Notices of Noncompliance (NON) letters are issued by CAFO program staff and most compliance issues are resolved through this process. Notices of Violation (NOV) letters are issued by Environmental Enforcement (EE) Program Staff when noncompliance cannot be resolved through NON process or when the violation is more significant and requires a higher level of enforcement.

NOTE: See Runoff Management Enforcement Handbook for Manure and Process Wastewater Discharges and Runoff Events for more details on processes and authorities.

The purpose of NON is to notify the permittee of noncompliance. Key parts of NON include:

- Date of violation
- Permit or code reference for each specific violation
- Short description of violation
- Due date for items necessary to return to compliance
- Typically a report or other documentation of violations are included as an enclosure to NON
- Other relevant program information associated with compliance may also be attached (see Appendices for examples)

All NONs shall be issued by CAFO staff within 14-30 days of discovery of noncompliance. As outlined in the Environmental Enforcement Handbook starting the stepped enforcement in a timely manner is a top priority for the Department. Note: DNR Environmental Enforcement Specialists have expectation of 14 days to issue an NOV and 30 day target for holding enforcement conference.

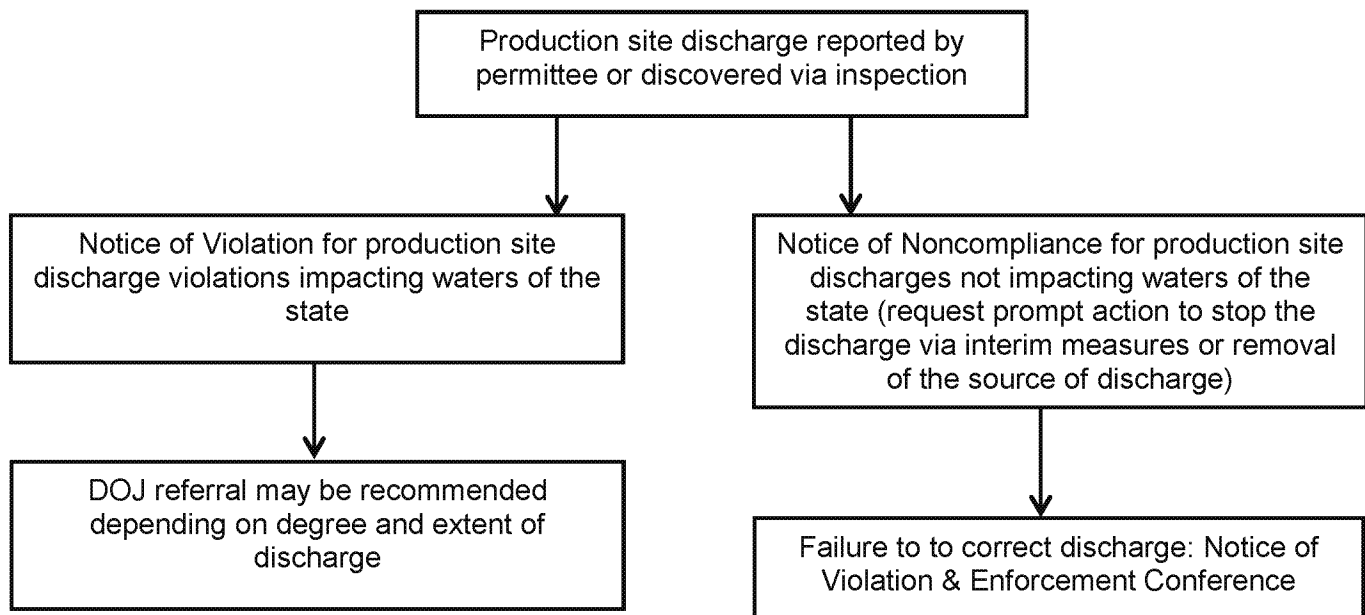
The following pages have flow charts showing typical CAFO permit violations and expected enforcement response steps. A template NON is on page __ and permit cites followed by examples is on pages __ to __. When staff are unsure of appropriate enforcement level of enforcement or appropriate permit cite to reference they should consult with CAFO program enforcement coordinator and/or environmental enforcement staff.

Documentation of the CAFO facility returning to compliance is also important and shall be done. Once violations outlined in an NON are resolved, a "Return to Compliance" letter shall be issued, see page __ for template. The EE program issues NOV closeout letters once the CAFO program determines compliance issues have been resolved.

Enforcement Flow Chart for Production Site Discharge

Production site discharges are only allowed if in compliance with permit discharge limitations. Inspections that document an unlawful discharge of manure or process wastewater must be followed up with an enforcement notice informing permittee to correct the permit violation. Common production site discharge examples are:

- Any discharge offsite / failure to properly store and contain waste (no impacts to waters of the state)
- Headland stacking on unapproved sites or sites not meeting requirements
- Headland stacking site discharges to waters of the state
- Feedlot runoff discharge to waters of the state
- Feed storage area runoff discharge to waters of the state
- Waste storage overtopping to waters of the state



Note: Enforcement discretion may be used on case-by-case basis.

Examples:

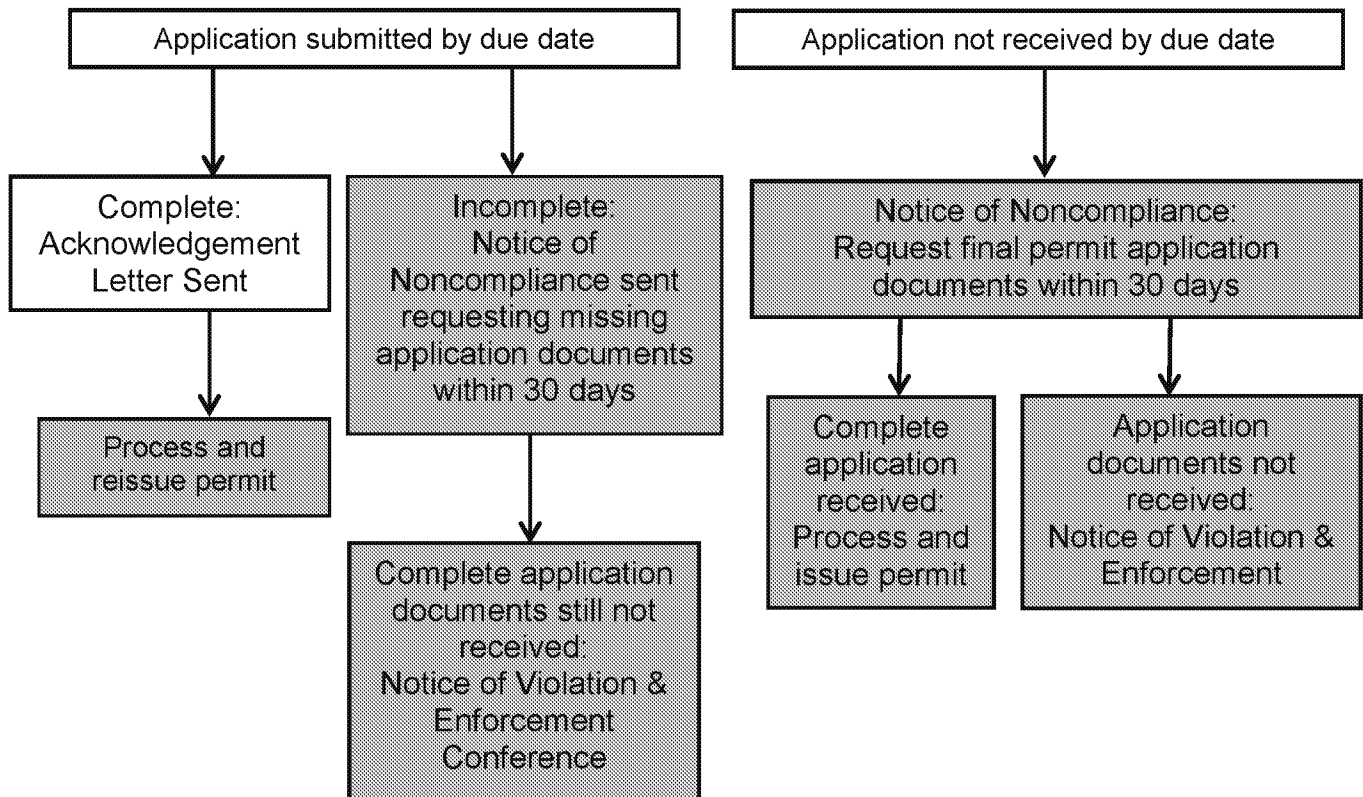
- Typically any ongoing significant production site discharge not reported by permittee results in issuance of NOV (discovered via complaint or inspection)
- Depending on degree of impacts, production site discharges to waters of the state that result from equipment malfunction that are reported and responded to appropriately may result in issuance of an NON
-

Enforcement Flow Chart for Submitting a Reissue CAFO WPDES Permit application

Below is an outline of steps for staff to follow regarding existing permitted CAFOs permit reissue application process. By utilizing stepped enforcement in a timely manner when reissue applications are not submitted by the permit due date or applications are incomplete, issuing a notice of noncompliance will likely facilitate a timely response for permittee to submit items necessary to return to compliance.

Yellow boxes = intake specialist duty

Blue boxes = regional specialist duty



Note: Enforcement discretion may be used on a case-by-case basis.

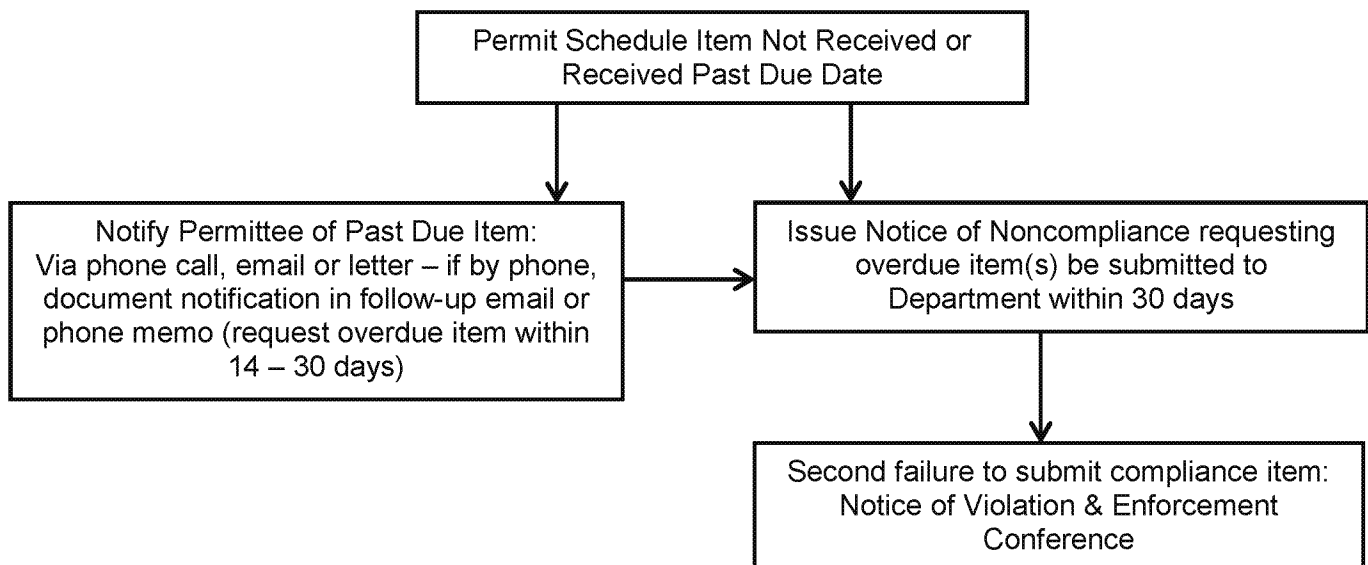
Examples:

- If permittee requests more time prior to due date due to reasonable circumstances, the Department staff may allow more time—however, the permittee is still technically in noncompliance as permit due dates cannot be extended.
- For incomplete applications submitted on time, Department staff may allow for an additional 5-10 days if only minor components are missing.

Enforcement Flow Chart for Failure to Comply with Permit Schedules Section

Permits may have several compliance schedule items they need to meet. By utilizing stepped enforcement in a timely manner when compliance items in Schedules section of permit are not submitted by the permit due date, issuing a notice of noncompliance will likely facilitate a timely response for permittee to submit items necessary to return to compliance. Common compliance schedule items are:

- Emergency Response Plan (typically due within 30 days of issuance/reissuance (oftentimes permit says “available upon Department request” unless language is changed during permit drafting)
- Monitoring Inspection Program (typically due within 30 to 90 of issuance/reissuance)
- Plans and Specifications (hire professional, plan submittal, complete construction)
- Engineering Evaluations (hire professional, evaluate, submit plans (if necessary), complete construction (if necessary))
- Annual Reports (typically due January 31st)
- Nutrient Management Plan Update reports (typically due March 31st)
- Permit reissue application (see flow chart on previous page)



Note: Enforcement discretion may be used on case-by-case basis.

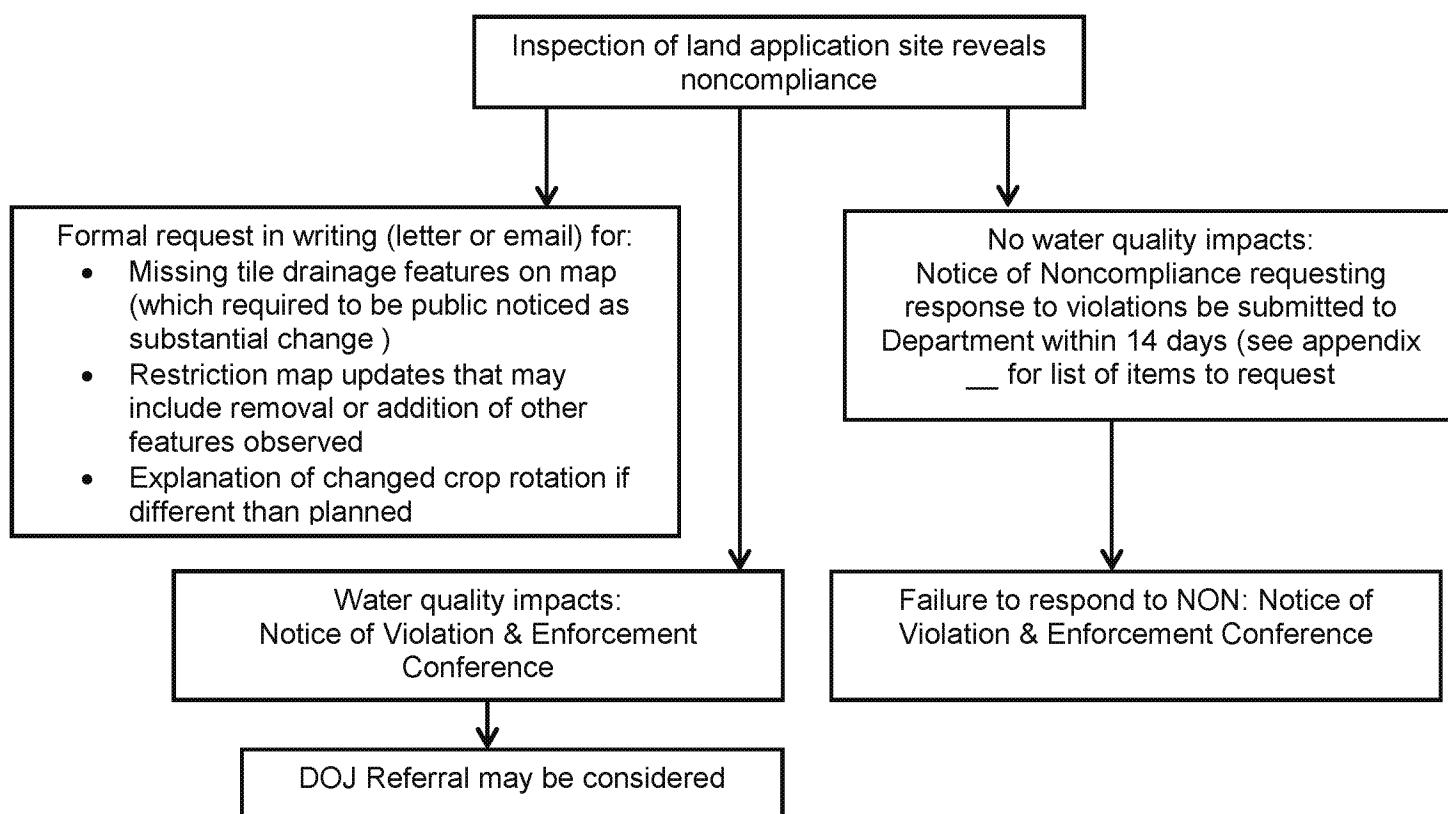
Examples:

- If permittee requests more time prior to due date due to reasonable circumstances, the Department may allow more time—however, the permittee is still technically in noncompliance as permit due dates cannot be extended.
- If first term of permit, informal reminders/notifications of upcoming or past due dates may be provided to permittee by the Department as time allows.
- If permittee has a history of not submitting permit items on time, an NON should be issued right away; if past NONs are on record for same violation then an NOV may be more appropriate.
- If compliance items due dates are missed and are necessary to comply with permit discharge limitations (i.e. failure to stop surface water discharges) an NOV may be more appropriate instead of NON.

Enforcement Flow Chart for Failure to Comply with Nutrient Management Plan

Implementation of the nutrient management plan requirements is critical for maintaining permit compliance. Measuring compliance is often conducted during complaint response or through hauling audit observations. Operations failing to meet NMP requirements should be issued timely enforcement notice; Issuing a notice of noncompliance(or NOV) will likely facilitate a timely response for permittee to submit items necessary to return to compliance. Common land application violations are:

- Failure to meet setbacks to private or community well or other conduits to groundwater (sinkhole)
- Failure to meet setbacks to waters of the state (surface waters/wetlands) or conduits to surface water
- Failure to meet separation on soils within 24 inches to bedrock or groundwater
- Spreading liquid manure or process wastewater on frozen or snow-covered ground (non-emergency)
- Spreading on fields not in approved nutrient management plan
- Spreading through grassed waterway
- Gully erosion flow paths present/not stabilized
- Runoff event off intended application site (no impacts to waters of the state)
- Runoff or infiltration event resulting in well contamination
- Runoff event resulting in discharge to waters of the state (wetlands, waterways, lakes, etc.)



Note: Enforcement discretion may be used on case-by-case basis.

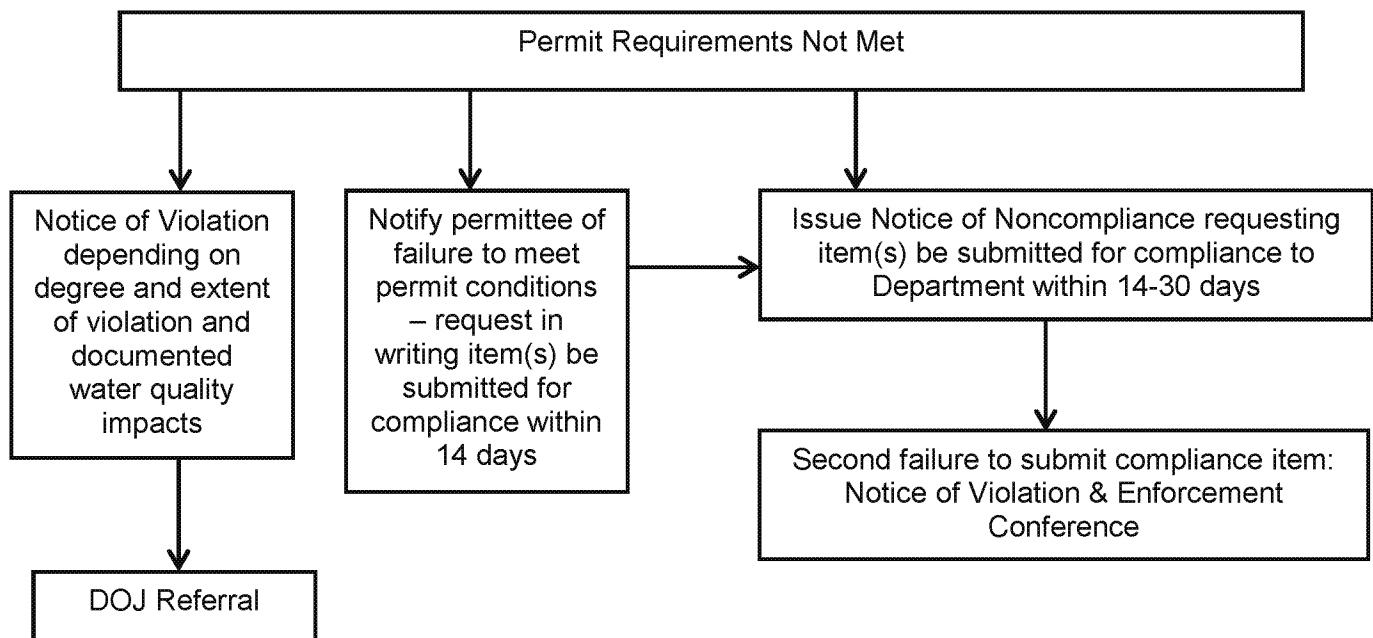
Examples:

- If permittee has a history of land application violations (if past NONs are on record for same violation) then an NOV may be more appropriate.
- If multiple NMP/permit violations are documented an NOV may be appropriate even if water quality impacts did not occur.

Enforcement Flow Chart for Failure to Comply with Required Reporting & Approvals

Utilizing stepped enforcement is important for documenting noncompliance with permit. Chronic permit noncompliance may cause significant water quality impacts if not addressed in a timely manner. Examples of common permit violations associated with reporting and/or approvals listed below:

- Failure to submit plans and specifications prior to construction
- Failure to report changes which result in increased discharges of pollutants (not reporting satellite facilities, planned changes resulting in more animal units, etc.)
- Failure to report waste storage levels exceeding maximum operating levels
- Failure to maintain 180 days of manure or process wastewater storage
- Failure to get approval for distribution of manure or process wastewater
- Failure to get approval for taking offsite generated wastes
- Failure to report spill or permit violation (no impacts to waters of the state)
- Failure to report spill or permit violation (documented impacts to waters of the state)



Note: Enforcement discretion may be used on case-by-case basis.

Examples:

Insert engineering review flow chart on next page (evals, P&S, etc.)

LETTERHEAD HERE

DATE

FARMER NAME
CAFO NAME
ADDRESS

WPDES Permit No. XXXXXXXXX
NAME County

SUBJECT: Notice of Noncompliance – Response Requested by DATE

Dear FARMER NAME:

The Department of Natural Resources has reason to believe that CAFO NAME, located at ADDRESS, is in noncompliance with its Wisconsin Pollutant Discharge Elimination System Permit Number WI-#####-##-# that became effective on ENTER DATE. Based on findings during FILE REVIEW, INSPECTION, ETC., the department believes the facility is not complying with the following permit conditions:

1. *Permit Section ##: COPY & PASTE PERMIT CITE HERE*
 - *A brief (2-3 sentences) describing the alleged noncompliance item.*
2. *Permit Section ##: COPY & PASTE PERMIT CITE HERE*
 - *A brief (2-3 sentences) describing the alleged noncompliance item.*

In order to comply with the Permit, please submit to me by PICK DATE either to the address listed in the letterhead or by email the following:

- REQUESTED ITEMS
-

Please understand that you are in noncompliance and will remain in noncompliance until you take all necessary actions to address noncompliance issues listed above. Failure to respond in a timely manner may result in escalated enforcement actions. If you have any questions regarding this letter or permit requirements, please contact me at (###) ###-#### or email.here@wisconsin.gov.

Sincerely,

NAME
TITLE

Enclosure(s): Inspection Report or other documentation to support violations

Cc: DNR SUPERVISOR, Enforcement Coordinator, ETC.
AGRONOMIST / ENGINEER
COUNTY LCD
FILE

PERMIT VIOLATIONS & EXAMPLE PHRASING

Copy and paste relevant permit cites into NON letter or NOV routing form (use facility's active permit for section #s)

Considerations

- List most relevant permit cite for violation (there may be more than one permit cite that fits 1 issue)
- Oftentimes the permit language may not exactly fit the issue/situation but may be the most suitable to list
- Code reference may be used if needed – the permit references the code in several sections
-

Production Area Discharge Limitations

The permittee shall comply with the livestock performance standards and prohibitions in ch. NR 151. In accordance with s. NR 243.13, the permittee may not discharge manure or process wastewater pollutants to navigable waters from the production area, including approved manure stacking sites, unless all of the following apply:

- Precipitation causes an overflow of manure or process wastewater from a containment or storage structure.
- The containment or storage structure is properly designed, constructed and maintained to contain all manure and process wastewater from the operation, including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event for this location (COUNTY, X INCHES).
- The production area is operated in accordance with the inspection, maintenance and record keeping requirements in s. NR 243.19.
- The discharge complies with surface water quality standards.

A permittee may not discharge any pollutants from the production area to a 303(d) listed surface water if the pollutants discharged are related to the cause of the impairment, unless the discharge is allowed under an EPA approved TMDL.

For all new or increased discharges to an ORW or ERW, any pollutant discharged shall not exceed existing levels of the pollutant immediately upstream of the discharge site.

All structures shall be designed and operated in accordance with ss. NR 243.15 and NR 243.17 to control manure and process wastewater for the purpose of complying with discharge limitations established above and groundwater standards.

The permittee may not discharge pollutants to navigable waters under any circumstance or storm event from areas of the production area, including manure stacks on cropland, where manure or process wastewater is not properly stored or contained by a structure.

NOTE: Wastewater treatment strips, grassed waterways or buffers are examples of facilities or systems that by themselves do not constitute a structure.

Production area discharges to waters of the state authorized under this permit shall comply with water quality standards, groundwater standards and may not impair wetland functional values.

EXAMPLES:

On DATE the Department inspected the production area and observed manure from feedlot discharging into ditch connected to intermittent stream. The feedlot is not being operated and maintained to meet permit discharge limitations.

Manure and Process Wastewater Storage

All permittees shall have and maintain adequate storage for all manure and process wastewater generated at the operation to ensure that wastes can be properly stored and land applied in compliance with the conditions and timing restrictions of the permit, a Department approved nutrient management plan and s. NR 243.14(9).

Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all manure and process wastewater facilities and systems in compliance with the conditions of this permit. The permittee shall comply with the permit and s. NR 243.17, including the following requirements:

- All liquid manure and process wastewater storage or containment facilities shall have the permanent markers specified in s. NR 243.15(3)(e) (margin of safety and maximum operating level for liquid manure and process wastewater storage and the 180-day storage marker for liquid manure storage).
- Chemicals and other pollutants may not be added to manure, process wastewater or stormwater storage facilities or treatment systems without prior Department approval.
- Liquid manure storage facilities or systems shall be emptied to the point that the 180-day level indicator is visible on at least one day between October 1 and November 30, except for liquid manure remaining due to unusual fall weather conditions prohibiting manure applications during this time period. The permittee shall record the day on which the 180-day level indicator was visible during this time period. Permittees unable to empty their storage facility to the 180-day level indicator between October 1 and November 30, shall notify the department in writing by December 5.
- The permittee shall maintain a design storage capacity of 180 days for liquid manure unless the Department approves a temporary reduction in design storage capacity to 150 days in accordance with s. NR 243.17(4).
- Prior to introducing any influent additives to a digester, other than manure, the permittee shall obtain written Department approval. If any materials other than manure are used in the digester, the permittee shall maintain daily records of the volumes of all manure and non-manure components added to the digester influent. As part of its approval, the Department may apply additional requirements in accordance with s. NR 243.17(1). As part of the Department's review, the Department may also require amendments to the permittee's nutrient management plan and the permittee shall submit an amended plan to the Department to incorporate the additional requirements.

EXAMPLES:

Discharge Prevention

A permittee shall operate and maintain storage and containment facilities to prevent overflows and discharges to waters of the state.

- The permittee may not exceed the maximum operating level in liquid storage or containment facilities except as a result of recent precipitation or conditions that do not allow removal of material from the facility in accordance with permit conditions.
- The permittee shall maintain a margin of safety in liquid storage or containment facilities that levels of manure, process wastewater and other wastes placed in the storage or containment facility may not exceed. Materials shall be removed from the facility in accordance with the approved nutrient management plan to ensure that the margin of safety is not exceeded. Failure to maintain a margin of safety is permit noncompliance that must be reported to the Department in accordance with the timeframes specified in the Noncompliance-24 Hour Reporting subsection in the Standard Requirements.

EXAMPLES:

Liquid Manure – 180-day storage

The permittee shall demonstrate compliance with the 180-day design storage capacity requirement at all the following times:

- As part of an application for permit reissuance.
- At the time of submittal of plans and specifications for proposed reviewable facilities or systems.
- In annual reports to the department.
- When an operation is proposing, at any time, a 20% expansion in animal units or an increase by an amount of 1,000 animal units or more unless the Department has approved reductions in design storage in accordance with s. NR 243.17(4).

EXAMPLES:

Facility Closure and Abandonment

In accordance with s. NR 243.17, if the permittee plans to close or abandon structures or systems regulated by this permit, a closure or abandonment plan shall be submitted to the Department and written Department approval must be granted before closing the facility. Manure storage facilities shall be closed or abandoned in accordance with NRCS Standard 360 (December 2002). Closure or abandonment of a manure storage facility shall occur when manure has not been added or removed for a period of 24 months, unless the owner or operator can provide information to the Department that the structure is designed to store manure for a longer period of time or that the storage structure will be utilized within a specific period of time.

EXAMPLES:

Ancillary Service and Storage Areas

The permittee may discharge contaminated storm water to waters of the state from ancillary service and storage areas provided the discharges of contaminated stormwater comply with groundwater and surface water quality standards. The permittee shall take preventive maintenance actions and conduct periodic visual inspections to minimize the discharge of pollutants from these areas to surface waters. For CAFO outdoor vegetated areas, the permittee shall also implement the following practices:

- Manage stocking densities, implement management systems and manage feed sources to ensure that sufficient vegetative cover is maintained over the entire area at all times.
- Prohibit direct access of livestock or poultry to surface waters or wetlands located in or adjacent to the area unless approved by the department.

EXAMPLES:

Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all manure and process wastewater facilities and systems in compliance with the conditions of this permit. The permittee shall comply with the permit and s. NR 243.17, including the following requirements:

- All liquid manure and process wastewater storage or containment facilities shall have the permanent markers specified in s. NR 243.15(3)(e) (margin of safety and maximum operating level for liquid manure and process wastewater storage and the 180-day storage marker for liquid manure storage).
- Chemicals and other pollutants may not be added to manure, process wastewater or stormwater storage facilities or treatment systems without prior Department approval.
- Liquid manure storage facilities or systems shall be emptied to the point that the 180-day level indicator is visible on at least one day between October 1 and November 30, except for liquid manure remaining due to unusual fall weather conditions prohibiting manure applications during this time period. The permittee shall record the day on which the 180-day level indicator was visible during this time period. Permittees unable to empty their storage facility to the 180-day level indicator between October 1 and November 30, shall notify the department in writing by December 5.
- The permittee shall maintain a design storage capacity of 180 days for liquid manure unless the Department approves a temporary reduction in design storage capacity to 150 days in accordance with s. NR 243.17(4).

- Prior to introducing any influent additives to a digester, other than manure, the permittee shall obtain written Department approval. If any materials other than manure are used in the digester, the permittee shall maintain daily records of the volumes of all manure and non-manure components added to the digester influent. As part of its approval, the Department may apply additional requirements in accordance with s. NR 243.17(1). As part of the Department's review, the Department may also require amendments to the permittee's nutrient management plan and the permittee shall submit an amended plan to the Department to incorporate the additional requirements.

EXAMPLES:

Nutrient Management

Except as provided for in s. NR 243.142(2), the permittee is responsible for ensuring that the manure and process wastewater generated by the operation is land applied or disposed of in a manner that complies with the terms of this permit, the approved nutrient management plan and s. NR 243.14.

The permittee shall land apply manure and process wastewater in compliance with the Department approved nutrient management plan, s. NR 243.14 and the terms and conditions of this permit. Land application practices shall not exceed crop nutrient budgets determined in accordance with NRCS Standard 590, this permit and s. NR 243.14 and shall be based on manure and process wastewater analyses, soil tests, as well as other nutrient sources applied to a field. The permittee shall review and amend the nutrient management plan on an annual basis to reflect any changes in operations over the previous year (including incorporation of the previous year's amendments and new soil test results) and to include projected changes for the upcoming year. Annual updates are due in accordance with the Schedules section of the permit.

The management plan may be amended at any time provided the proposed amendments are approved in writing by the department and meet the requirements of s. NR 243.14. Changes requiring a plan amendment include, but are not limited to, changes to application rates, new spreading sites, changes in the number of livestock, changes in manure storage procedures, or changes in the type of manure spreading equipment. Unless specified in the "Special Permit Conditions" section of the permit, an amendment does not become effective and may not be implemented until the department has reviewed and approved the amendment. In addition, all approved amendments in a given year shall be included in the Annual Update.

The permittee shall maintain daily spreading records and submit annual reports relating to land application activities in accordance with s. NR 243.19.

General Spreading Restrictions

The permittee shall land apply manure and process wastewater in compliance with the following:

- Manure or process wastewater may not pond on the application site.
- During dry weather conditions, manure or process wastewater may not run off the application site, nor discharge to waters of the state through subsurface drains.
- Manure or process wastewater may not cause the fecal contamination of water in a well.
- Manure or process wastewater may not run off the application site nor discharge to waters of the state through subsurface drains due to precipitation or snowmelt except if the permittee has complied with all land application restrictions in NR 243 and this permit, and the runoff or discharge occurs as a result of a rain event that is equal to or greater than a 25-year, 24-hour rain event.
- Manure or process wastewater may not be applied to saturated soils.
- Land application practices shall maximize the use of available nutrients for crop production, prevent delivery of manure and process wastewater to waters of the state, and minimize the loss of nutrients and other contaminants to waters of the state to prevent exceedances of groundwater and surface water quality standards and to prevent impairment of wetland functional values. Practices shall retain land applied manure and process wastewater on the soil where they are applied with minimal movement.
- Manure or process wastewater may not be applied on areas of a field with a depth to groundwater or bedrock of less than 24 inches.
- Manure or process wastewater may not be applied within 100 feet of a direct conduit to groundwater.

- Manure or process wastewater may not be applied within 100 feet of a private well or non-community system as defined in ch. NR 812 or within 1000 feet of a community well as defined in ch. NR 811.
- Unless specified otherwise in this permit, where incorporation of land applied manure is required, the incorporation shall occur within 48 hours of application.
- Manure or process wastewater may not be surface applied when precipitation capable of producing runoff is forecast within 24 hours of the time of planned application.
- Manure may not be spread in a waterway, terrace channel or any areas where there may be a concentration of runoff.
- Fields receiving manure and process wastewater may not exceed tolerable soil loss ("T").

EXAMPLES:

Non-Cropland Applications

Manure may be applied to non-cropland if pre-approval in writing is issued by the Department. Considerations for approval may include acceptable application timing, amounts and methods.

Additional Nutrient Management Plan Requirements

- If applicable, the permittee shall specify the method(s) of incorporation in its nutrient management plan.
- The permittee shall identify, to the maximum extent practicable, the presence of subsurface drainage systems in fields where its manure or process wastewater is applied as part of the nutrient management plan.
- In accordance with s. NR 243.14(3), the permittee shall account for 1st and 2nd year nutrient credits.
- On a field-by-field basis, the permittee shall select and implement one of the practices listed in s. NR 243.14(4) for manure and process wastewater applications in a SWQMA (defined in ch. NR 243), and include the selected practices in the nutrient management plan. Whenever manure or process wastewater is applied within a SWQMA, the permittee shall apply the material in compliance with the SWQMA practices specified in the approved nutrient management plan.
- On a field-by-field basis, the permittee shall select one of the methods specified in s. NR 243.14(5) for assessing and minimizing the potential delivery of phosphorus to surface waters, and include the selected method in the nutrient management plan. The permittee shall apply manure and process wastewater to fields in compliance with the phosphorus methods specified in the approved nutrient management plan. On a field-by-field basis, the permittee shall select and implement one of the methods.

Frozen or Snow Covered Ground – General Spreading Restrictions

If the permittee applies manure on frozen or snow-covered ground, the permittee shall land apply the manure in compliance with all of the restrictions in s. NR 243.14(6)-(8). Some of these restrictions include:

- Any incorporation of manure on frozen or snow-covered ground must be done immediately after application.
- The permittee shall identify acceptable sites for allowable applications on frozen or snow-covered ground as part of its nutrient management plan.
- The permittee shall evaluate each field at the time of application to determine if conditions are suitable for applying manure and complying with the requirements of this permit. All surface applications of manure or process wastewater on frozen or snow-covered ground shall occur on those fields that represent the lowest risk of pollutant delivery to waters of the state and where the application results in a winter acute loss index value of 4 or less using the Wisconsin phosphorus index.
- Manure or process wastewater may not be land applied on fields when snow is actively melting such that water is flowing off the field.
- On fields with soils that are 60 inches thick or less over fractured bedrock, manure may not be applied on frozen ground or where snow is present.
- Manure may not be incorporated on areas of fields with greater than 4 inches of snow.

EXAMPLES:

Frozen or Snow Covered Ground – Solid Manure (12% solids or more)

The permittee may surface apply solid manure on frozen or snow-covered ground in compliance with the following restrictions:

- Solid manure may not be surface applied on slopes greater than 9%.
- Solid manure may not be surface applied from February 1 through March 31 on areas of fields where an inch or more of snow is present or where the ground is frozen.
- The surface application shall comply with the restrictions in Table 1.

<p style="text-align: center;">Table 1 Restrictions for Surface Applying Solid Manure on Frozen or Snow Covered Ground</p>		
Criteria	Restrictions for fields with 0-6% slopes	Restrictions for fields with slopes > 6% and up to 9%
Required fall tillage practice prior to application	Chisel or moldboard plow, no-till or a department approved equivalent ^A	Chisel or moldboard plow, no-till or department approved equivalent ^A
Minimum % solids allowed	12%	> 20%
Application rate (cumulative per acre)	Not to exceed 60 lbs. P ₂ O ₅ per winter season, the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied, or phosphorus application restrictions specified in a department approved nutrient management plan, whichever is less	Not to exceed 60 lbs. P ₂ O ₅ per winter season, the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied, or phosphorus application restrictions specified in a department approved nutrient management plan, whichever is less
Setbacks from surface waters	No application allowed within SWQMA	No application allowed within 2.0 x SWQMA
Setbacks from downslope areas of channelized flow, vegetated buffers, and wetlands	200 feet	400 feet
Setbacks from direct conduits to groundwater	300 feet	600 feet
<p>A – All tillage and farming practices shall be conducted in accordance with the following requirements; 0-2% slope = no contouring required, >2-6% slope = tillage and practices conducted along the general contour, >6% slope = tillage and farming practices conducted along the contour. The department may approve alternative tillage practices on a case-by-case basis in situations where conducting practices along the contour is not possible. Allowances for application on no-till fields only apply to fields where no-till practices have been in place for a minimum of 3 years.</p>		

EXAMPLES:

Frozen or Snow Covered Ground – Allowances for Surface Applications of Liquid Manure (<12% solids)

The permittee is prohibited from surface applying liquid manure during February and March, and is prohibited from surface applying liquid manure on frozen or snow-covered ground except for the following conditions:

- The permittee may surface apply liquid manure on frozen or snow covered ground, including during February and March, on an emergency basis in accordance with Table 2 and s. NR 243.14(7)(d) on fields the Department has approved for emergency applications. The permittee must notify the department verbally prior to the emergency application. Unless the emergency application is necessitated by imminent impacts to the environment or human or animal health, the permittee may not apply manure to a field on an emergency basis until the department has verbally approved the application. The permittee shall submit a written description of the emergency application and the events leading to the emergency application to the department within 5 days of the emergency application.
- Liquid manure that is frozen and cannot be transferred to a manure storage facility may be surface applied on frozen or snow-covered ground, including during February and March, in accordance with the restrictions in Tables 2 and s. NR 243.14(f). Surface applications of frozen liquid manure do not require prior department approval or notification provided application sites for frozen liquid manure are identified in the approved nutrient management plan. During February and March, the permittee shall notify the department if the permittee expects to surface apply frozen liquid manure more than 5 days in any one month.

Table 2 Restrictions for Surface Applications of Liquid Manure on Frozen or Snow Covered Ground		
Criteria	Restrictions for fields with 0-2% slopes	Restrictions for fields with >2-6% slopes
Required fall tillage practice prior to application	Chisel or moldboard plow or department approved equivalent ^A	Chisel or moldboard plow or department approved equivalent ^A
Application rate (cumulative per acre)	Maximum application volume of 7,000 gallons per acre per winter season, not to exceed 60 lbs. P ₂ O ₅ , the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied or other phosphorus application restrictions specified in a department approved nutrient management plan, whichever is less	Maximum application volume of 3,500 gallons per acre per winter season, not to exceed 30 lbs. P ₂ O ₅ , the following growing season's crop P ₂ O ₅ budget taking into account nutrients already applied, or other phosphorus application restrictions specified in a department approved nutrient management plan, whichever is less
Setbacks from surface waters	No application allowed within SWQMA	No application allowed within SWQMA
Setbacks from downslope areas of channelized flow, vegetated buffers, wetlands	200 feet	200 feet
Setbacks from direct conduits to groundwater	300 feet	300 feet
A – All tillage and farming practices shall be conducted along the contour in accordance with		

Table 2 Restrictions for Surface Applications of Liquid Manure on Frozen or Snow Covered Ground		
Criteria	Restrictions for fields with 0-2% slopes	Restrictions for fields with >2-6% slopes
the following requirements; 0-2% slope = no contouring required, >2-6% slope = tillage and practices conducted along the general contour. The department may approve alternative tillage practices on a case-by-case basis in situations where conducting practices along the contour is not possible		

EXAMPLES:

Frozen or Snow Covered Ground – Process Wastewater

If a permittee land applies process wastewater on frozen or snow-covered ground, the permittee shall land apply the process wastewater in compliance with s. NR 214.17(2) through (6) and the other land application restrictions in this permit, except for the restrictions in the “Frozen or Snow Covered Ground – Solid Manure (12% solids or more)” and “Frozen or Snow Covered Ground – Allowances for Surface Applications of Liquid Manure (<12% solids)” sections of this permit.

EXAMPLES:

Spreading Sites Submittals

Permittee requests to amend a nutrient management plan to include landspreading sites not found in an approved management plan shall include the following information:

- The location of the site on maps and aerial photographs, and soil survey maps.
- A unique site identification number
- Information used to verify the site meets locational requirements of the permit,
- A nutrient budget for the site consistent with permit requirements. This includes a completed worksheet outlining the process in determining appropriate spreading rates for each additional site, including a crop history identifying the previous season's crops and future cropping plans for each site and estimated nutrient uptake.
- A demonstration that the field(s) in question meets tolerable soil loss rate.
- Maps that show where land application is prohibited or restricted on a map or aerial photograph of the site.
- Soil samples if available for one-time applications. If the permittee wishes to use the site for subsequent applications, soil samples shall be submitted prior to additional landspreading.

EXAMPLES:

Monitoring and Sampling Requirements

The permittee shall comply with the monitoring and sampling requirements specified below for the listed sampling point(s), and the following conditions.

Monitoring and Inspection Program

As specified in the Schedules section of this permit, the permittee shall submit a monitoring and inspection program designed to determine compliance with permit requirements. The program shall be consistent with the requirements of this section and shall identify the areas that the permittee will inspect, the person

responsible for conducting the inspections and how inspections will be recorded and submitted to the department.

Visual inspections shall be completed by the permittee or designee in accordance with the following frequencies:

- Daily inspections for leakage of all water lines that potentially come into contact with pollutants or drain to storage or containment structures or runoff control systems, including drinking or cooling water lines.
- Weekly inspections to ensure proper operation of all storm water diversion devices and devices channeling contaminated runoff to storage or containment structures.
- Weekly inspections of liquid storage and containment structures. For liquid storage and containment facilities, the berms shall be inspected for leakage, seepage, erosion, cracks and corrosion, rodent damage, excessive vegetation and other signs of structural weakness. In addition, the level of material in all liquid storage and containment facilities shall be measured and recorded in feet or inches above or below the margin of safety level.
- Quarterly inspections of the production area, including outdoor animal pens, barnyards and raw material storage areas. CAFO outdoor vegetated areas shall be inspected quarterly.
- Periodic inspections and calibration of landspreading equipment to detect leaks and ensure accurate application rates for manure and process wastewater. An initial calibration of spreading equipment shall be followed by additional calibration after any equipment modification that may impact application of manure or process wastewater or after changes in product or manure or process wastewater consistency. Spreading equipment for both liquid and solid manure shall be inspected just prior to the hauling season, and equipment used for spreading liquids shall be inspected at least once per month during months when hauling occurs.
- Inspections of fields each time manure or process wastewater is surface applied on frozen or snow-covered ground to determine if applied materials have run off the application site. Inspections shall occur during and shortly after application.

The permittee shall take corrective actions as soon as practicable to address any equipment, structure or system malfunction, noncompliance, failure or other problem identified through monitoring or inspections. If the permittee fails to take corrective actions within 30 days of identifying a malfunction, noncompliance, failure or other problem, the permittee shall contact the Department immediately following the 30-day period and provide an explanation for its failure to take action.

EXAMPLES:

Sampling Requirements

The permittee shall collect and analyze representative samples of land applied manure and process wastewater for the parameters outlined in the monitoring requirements for each sample point. The permittee shall also collect and analyze soils from fields used for manure or process wastewater applications at least once every four years. Sampling of manure, process wastewater and soils shall be done in accordance with s. NR 243.19(1)(c).

Sampling Point(s)

The permittee is authorized to use only the facilities identified below, in accordance with the conditions specified in this permit. The permittee may not install or use new facilities or structures or land apply manure or other process wastewaters from these facilities unless written Department approval is received. A new facility is any facility that is not specifically identified in this permit. If a new facility is approved in writing by the Department, the conditions in the corresponding 'New Facility' sampling point (e.g. Manure Storage Facilities, Runoff Control Systems) will apply.

Manure and Process Wastewater Storage Facilities - Sampling Required

In accordance with the Production Area Discharge Limitations subsection, manure and process wastewater storage facilities shall be operated and maintained to prevent discharges to navigable waters and to comply with surface water quality standards. In addition, manure and process wastewater storage facilities shall be operated and maintained to minimize leakage for the purpose of complying with groundwater standards. Unless specifically approved and designated by the Department as a sampling point, in-field unconfined storage of manure (manure stacking) is prohibited. The permittee is authorized to use facilities identified below, in accordance with the conditions specified in this permit.

Manure and Process Wastewater Storage Facilities - Action Needed: For manure and process wastewater storage facilities that are to be installed, evaluated or abandoned (as indicated in the above table), see the Schedules section herein for actions required. Although this permit may require actions for installing permanent facilities, or controls, or modifications to existing facilities, interim measures shall be immediately implemented to prevent discharges of pollutants to navigable waters. Specifically, if monitoring or inspection reports indicate any storage facility may not be able to prevent discharges to navigable waters in accordance with the conditions in the Production Area Discharge Limitations subsection, the permittee shall immediately install interim control measures to contain the discharges. Plans and specifications for permanent facilities must be submitted to the Department for review and approval in accordance with Chapter 281.41, Wis. Statutes, and Chapter NR 243, Wis. Adm. Code.

EXAMPLES:

Runoff Control System(s) - No Sampling Required

In accordance with the Production Area Discharge Limitations subsection, the permittee shall control contaminated runoff from all elements of the livestock operation to prevent a discharge of pollutants to navigable waters and to comply with surface water quality standards and groundwater standards.

Runoff Control System(s) - Action Needed: For runoff control systems that are to be installed, evaluated or abandoned (as indicated in the above table), see the Schedules section herein for actions required. Although permanent control measures may be required by this permit, interim measures shall be implemented to prevent discharges of pollutants to navigable waters. Specifically, if monitoring or inspection reports indicate that manure or process wastewater may be discharged to navigable waters from the animal production area, in violation of the conditions in the Production Area Discharge Limitations subsection, the permittee shall immediately install interim control measures to contain the discharges. Plans and specifications for permanent runoff controls must be submitted to the Department for review and approval in accordance with Chapter 281.41, Wis. Statutes, and Chapter NR 243, Wis. Adm. Code.

EXAMPLES:

General Conditions

NR 205, Wisconsin Administrative Code: The conditions in s. NR 205.07(1), Wis. Adm. Code, are included by reference in this permit. The permittee shall comply with all of these requirements. Some of these requirements are outlined in the Standard Requirements section of this permit. Requirements not specifically outlined in the Standard Requirement section of this permit can be found in s. NR 205.07(1).

Duty to comply

The permittee shall comply with all conditions of the permit. Any permit noncompliance is a violation of the permit and is grounds for enforcement action, permit revocation or modification, or denial of a permit reissuance application.

Permit Actions

As provided in s. 283.53, Stats., after notice and opportunity for a hearing the permit may be modified or revoked and reissued for cause. If the permittee files a request for a permit modification, revocation or

reissuance, or a notification of planned changes or anticipated noncompliance, this action by itself does not relieve the permittee of any permit condition.

Property Rights

The permit does not convey any property rights of any sort, or any exclusive privilege. The permit does not authorize any injury or damage to private property or any invasion of personal rights, or any infringement of federal, state or local laws or regulations.

Schedules

Reports of compliance or noncompliance with interim and final requirements contained in any schedule of the permit shall be submitted in writing within 14 days after the schedule date, except that progress reports shall be submitted in writing on or before each schedule date for each report. Any report of noncompliance shall include the cause of noncompliance, a description of remedial actions taken and an estimate of the effect of the noncompliance on the permittee's ability to meet the remaining schedule dates.

EXAMPLES:

Inspection and Entry

The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:

- enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records are required under the conditions of the permit;
- have access to and copy, at reasonable times, any records that are required under the conditions of the permit;
- inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under the permit; and
- sample or monitor at reasonable times, for the purposes of assuring permit compliance, any substances or parameters at any location.

Transfers

A permit is not transferable to any person except after notice to the Department. In the event of a transfer of control of a permitted facility, the prospective owner or operator shall file a new permit application and shall file a stipulation of permit acceptance with the Department WPDES permit section. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and to reflect the requirements of ch. 283, Stats.

Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any adverse impact on the waters of the state resulting from noncompliance with the permit.

Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking or reissuing the permit or to determine compliance with the permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permittee.

Recording of Results-Sampling

For each manure, process wastewater or soil sample taken by the permittee, the permittee shall record the following information:

- The date, exact place, method and time of sampling or measurements,
- The individual or lab that performed the sampling or measurements,
- The date of the analysis was performed,
- The individual who performed the analysis,

- The analytical techniques or methods used
- The results of the analysis.

Recording of Results-Inspections

For each inspection conducted by the permittee, the permittee shall record the following information:

- The date and name of the person(s) performing the inspection,
- An inspection description, including components inspected,
- Details of what was discovered during the inspection,
- Recommendations for repair or maintenance,
- Any corrective actions taken.

Spill Reporting

The permittee shall notify the Department in the event that a spill or accidental release of any material or substance results in the discharge of pollutants to the waters of the state at a rate or concentration greater than the effluent limitations or restrictions established in this permit, or the spill or accidental release of the material that is unregulated in this permit, unless the spill or release of pollutants has been reported to the Department in accordance with s. NR 205.07 (1)(s), Wis. Adm. Code, and the "Noncompliance - 24 Hour Reporting," section of this permit.

EXAMPLES:

Planned Changes

The permittee shall report to the Department any facility or operation expansion, production increase or process modifications which will result in new, different or increased amount of manure or process wastewater produced or handled by the permittee or which will result in new, different or increased discharges of pollutants to waters of the state. The report shall either be a new permit application, or if the new discharge will not violate the conditions of this permit, a written notice of the planned change. The report shall contain a description of the planned change, an estimate of the new, different or increased discharge of pollutants and a description of the effect of change will have on current manure and process wastewater handling practices. Changes cannot be implemented prior to reporting changes to the Department. Following receipt of this report, the Department may require that the permittee submit plans and specifications, or modify its nutrient management plan to address the planned change. Changes requiring Department action or approval may not be initiated prior to Department action or approval.

EXAMPLES:

Submittal of Plans and Specifications

In accordance with s. NR 243.15, the permittee shall submit plans and specifications for proposed new or upgraded reviewable facilities or systems to the Department for approval prior to construction. Post construction documentation for these projects shall be submitted within 60 days of completion of the project, or as otherwise specified by the Department.

EXAMPLES:

Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the department, it shall promptly submit such facts or correct information to the department.

Noncompliance - 24 Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. This includes any upset which exceeds any effluent limitation in the permit, or violations of the discharge limitations listed in the permit.

NOTE: Section 292.11(2)(a), Wisconsin Statutes, requires any person who possesses or controls a hazardous substance or who causes the discharge of a hazardous substance to notify the Department of Natural Resources immediately of any discharge not authorized by the permit. The discharge of a hazardous substance that is not authorized by this permit or that violates this permit may be a hazardous substance spill. To report a hazardous substance spill, call DNR's 24-hour HOTLINE at 1-800-943-0003.

EXAMPLES:

Reports and Submittal Certification

Signature(s) on reports required by this permit shall certify to the best of the permittee's knowledge the reports to be true, complete and accurate. All reports required by this permit shall be signed:

- for a corporation by a principal executive officer of at least the level of Vice President or his duly authorized representative having overall responsibility for the operation of the facility of which this permit issued,
- for a partnership by a general partner, and
- for a sole proprietorship by the proprietor.

Responsibility for Manure and Process Wastewater

The permittee is responsible for the storage, management and land application of all manure and process wastewater generated by the operation. The permittee is also responsible for any manure or process wastewater received from non-permitted operations that are accepted by the permittee for storage, management or land application.

Distribution of Manure and Process Wastewater

All manure and process wastewater generated by the permittee is the responsibility of the permittee and shall be stored and applied in compliance with the terms and conditions of this permit and the approved nutrient management plan, except if the manure or process wastewater is distributed to another person in accordance with s. NR 243.142 and the Department has approved the transfer of responsibility in writing.

To transfer responsibility for handling, storage and application of manure or process wastewater, a permittee shall submit a written request to the Department. At minimum the request shall indicate how the permittee will comply with all conditions identified in ch. NR 243.142(3), Wis. Adm. Code. If approved, the permittee will be responsible for the following recordkeeping and reporting:

- Update the nutrient management plan to include the estimated amount of manure and process wastewater to be transferred, and record the actual amount transferred at the time of transfer.
- Maintain records that identify the name and address of the recipient of the manure or process wastewater, quantity, and dates of transfer.
- Provide the recipient with written information regarding the nutrient content (nitrogen and phosphorus at minimum) of the manure and process wastewater.
- Submit transfer reports to the Department with the annual report.
- Records shall be maintained for at least 5 years.

Upon written approval from the Department, the permittee is not responsible for the land application, use or disposal of distributed manure or process wastewater if the manure or process wastewater is distributed in compliance with the conditions of the Department approval and s. NR 243.142.

EXAMPLES:

Emergency Response Plans

Within 30 days of the effective date of the permit, the permittee shall develop a written emergency response plan, or update an existing plan if necessary, in accordance with s. NR 243.13(6). The plan shall be made available to the Department upon request. The emergency response plan shall be reviewed and, if appropriate or necessary, amended whenever the operation undergoes significant expansions or other changes that affect the volume or location of potential unauthorized spills or discharges. The plan shall be amended as needed to reflect changes in available equipment, available clean-up contractors or procedures to address unauthorized spills or discharges, or amended in accordance with comments provided by the department. The plan shall be retained at the production area and the permittee shall notify all employees involved in manure and process wastewater handling of the location of the plan.

Mortality Management

Animal carcasses may not be disposed of in a manner that results in a discharge of pollutants to surface waters, violates groundwater standards or impairs wetland functional values. Animal carcasses may not be disposed of directly into waters of the state. In addition, carcasses may not be disposed of in liquid manure or process wastewater containment, storage or treatment facilities unless the containment, storage or treatment facility is adequately designed to contain and treat carcasses and the facility has been approved by the department for that use. The permittee shall record the date and method of carcass disposal.

[NOTE: The permittee should be aware that there are additional restrictions on the disposal of animal carcasses in ch. 95, Stats., and ATCP 3, Wis. Adm. Code. Furthermore, there may be local regulations regarding disposal of carcasses. If a carcass is disposed of off-site, the disposal may be subject to the requirements in ch. NR 502.12 or 518, Wis. Adm. Code]

EXAMPLES:

Department Review of Nutrient Management Plans

The Department reserves the right to review the Nutrient Management Plan at any time for application rates and cover crop nutrient removal rates, as well as the timing and methods of application. If the Department determines that a landspreading site is no longer acceptable for manure and process wastewater applications, the permittee shall modify the Nutrient Management Plan to remove the site from the plan. In addition, if the Department determines application rates need to be adjusted for individual fields, the permittee shall modify the Nutrient Management Plan. All Department initiated modifications shall be completed by the permittee within 3 months of written notification from the Department.

Record Keeping and Retention

The permittee shall keep records associated with production area and land application activities in accordance with s. NR 243.19(2). The permittee shall retain these records and copies of all reports required by the permit, and records of all data used to complete the application for the permit for a period of at least 5 years from the date of the sample, measurement, report or application. The Department may request that this period be extended by issuing a public notice to modify the permit to extend this period. These records shall be made available to the Department upon request.

Note: A form for recording daily land application activities (Form 3200-123A) can be obtained at regional offices of the Department or the Department's Bureau of Watershed Management, 101 S. Webster St., P.O. Box 7921, Madison, Wisconsin 53707.

Reporting Requirements

The permittee shall submit the following reports in accordance with s. NR 243.19(3)

- **Corrective Actions:** If the permittee fails to take corrective action within 30 days of identifying a malfunction, failure, permit noncompliance or other identified problem, the permittee shall contact the Department immediately following the 30-day period and provide an explanation for its failure to take action.

- Quarterly Reports: The permittee shall summarize the results of inspections conducted at the production area in a written quarterly report. The permittee shall maintain the quarterly reports onsite until the quarterly report is submitted to the Department as part of the annual report.
- Annual Reports: The permittee shall submit written annual reports to the department by the date specified in the Schedules section of permit for all manure and other process wastewater that is generated by the permittee. These annual reports shall cover quarterly reports, annual spreading activities and other information required in s. NR 243.19(3) for the previous calendar year or cropping year, as specified in this permit.

Note: Form 3200-123 (Annual Spreading Report) can be obtained at regional offices of the department or the department's Bureau of Watershed Management, 101 S. Webster St., P.O. Box 7921, Madison, Wisconsin 53707.

EXAMPLES:

Duty to Maintain Permit Coverage

The permittee shall submit a reissuance application in accordance with s. NR 243.12(2)(b) at least 180 days prior to the expiration date of its current WPDES permit, unless the permittee submits a letter to the Department documenting all of the following:

- That the permittee has ceased operation or is no longer defined as a large CAFO under s. NR 243.03(28).
 - That the permittee has demonstrated to the Department's satisfaction that it has no remaining potential to discharge of manure or process wastewater pollutants to waters of the state that was generated while the operation was a CAFO.

EXAMPLES:

Staff Compliance Oversight for Non-Permitted CAFOs

When CAFO staff become aware of a livestock facility that is defined as a large CAFO and has not yet applied or not submitted a complete permit application, enforcement response is necessary to facilitate compliance.

Typically discovery of a non-permitted operation over 1000 AUs either is reported by DNR nonpoint program staff, county land conservation departments or through complaints from general public. Sometimes permit applications received indicate the facility is already over 1000 AUs.

Staff tools available for gathering information for non-permitted livestock facilities that may be a large CAFO include the animal unit (AU) request letters; pre-permit meeting agenda; and production site inspection checklist.

When a facility fails to provide animal unit verification, staff shall follow-up with a NON requesting the information again. Continued non-response may result in issuance of an NOV and site inspection of the facility to determine if production site discharges exist.

When a facility fails to submit an application indicating the facility is at or over 1000 AU, staff shall issue a NON. If facility fails to comply with NON or submit a complete permit application, staff shall route for issuance of an NOV.

NOTE: See Runoff Management Enforcement Handbook for Manure and Process Wastewater Discharges and Runoff Events for more details on processes and authorities.

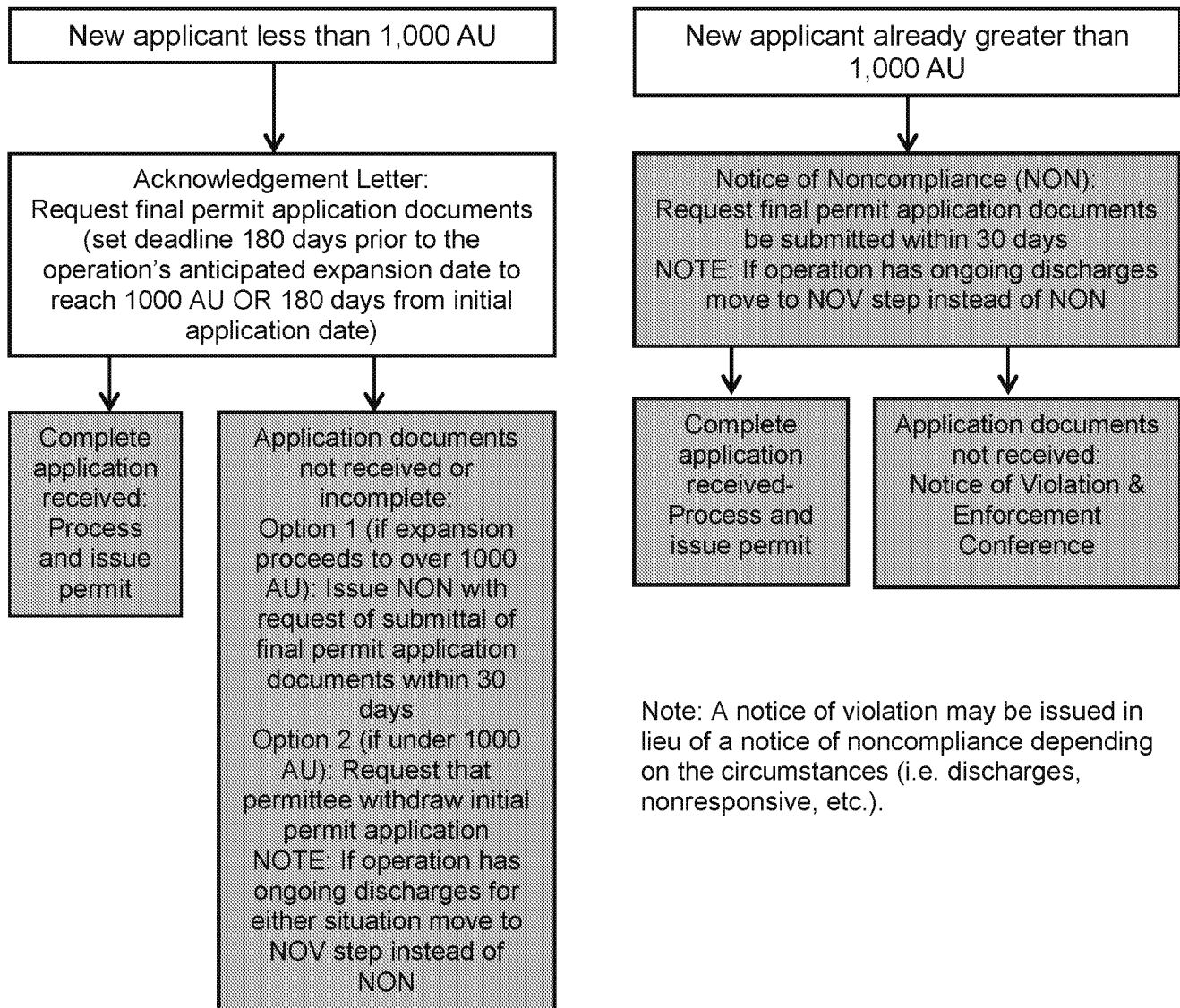
The following pages have flow charts showing enforcement actions associated with non-permitted livestock facilities. Template NONs are on pages ____.

Enforcement Flow Chart for Submitting a New CAFO WPDES Permit application

Below is an outline of steps for staff to follow regarding new permit application process for currently non-permitted farm operations. By utilizing stepped enforcement in a timely manner when complete applications are not submitted by the due date or applications are incomplete, issuing a notice of noncompliance will likely facilitate a timely response for applicant to submit items necessary to process permit.

Yellow boxes = intake specialist duty

Blue boxes = regional specialist duty



Note: A notice of violation may be issued in lieu of a notice of noncompliance depending on the circumstances (i.e. discharges, nonresponsive, etc.).

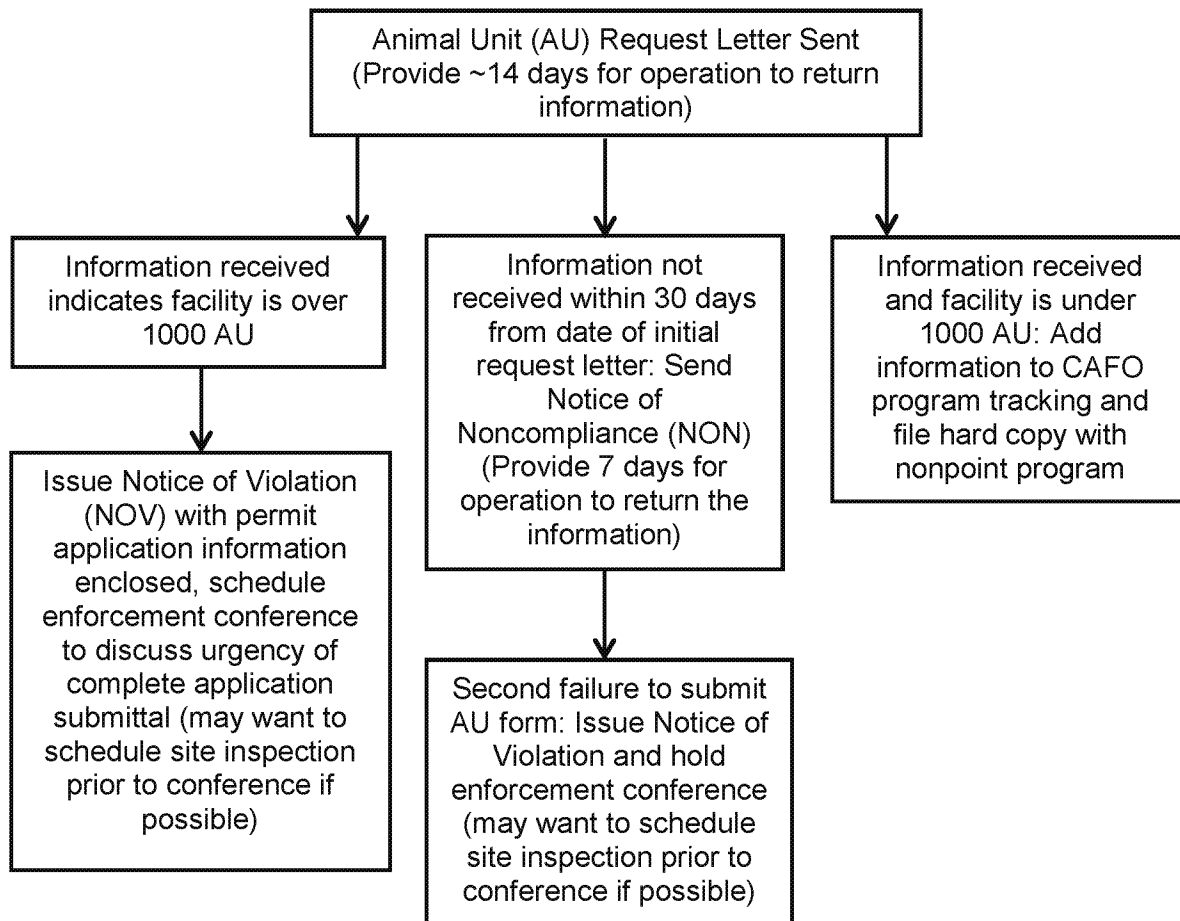
Note: There is not a violation for a medium AFO that applies for a permit unless the operation exceeds 1000 animal units or has an unpermitted discharge.

Insert template for NON – discharging without a permit

Enforcement Flow Chart for Failure to Comply Animal Unit Request

The Department has the authority to request animal unit (AU) numbers for any livestock facility to determine if permit coverage is necessary. As time allows the CAFO program shall send out animal unit verification requests to operations currently not permitted that appear to be reaching large CAFO size (oftentimes these facilities are referred by County staff to the Department). During complaint investigations the nonpoint program also may have the operation fill out the animal unit sheet—if the operation is determined to be a large CAFO, nonpoint shall transfer the case to the CAFO program for follow-up and enforcement.

It is important for the CAFO program to request information of facilities that may be at a size that requires a permit. If there is no response to an initial animal unit verification request, staff shall follow stepped enforcement to get the information required to make a determination for compliance.



LETTERHEAD HERE

DATE

NAME
FARM NAME
ADDRESS

NAME County

SUBJECT: Determining need for a Wisconsin Pollutant Discharge Elimination System (WPDES) Permit – Response Requested by DATE

Dear NAME:

This letter is regards to applying for a Wisconsin Pollutant Discharge Elimination System (WPDES) permit for your farm operation. The Department believes your operation may be reaching the size which requires a WPDES permit.

A WPDES permit is required for all livestock/poultry operations that will contain 1,000 or more animal units (AU). Please complete the enclosed Animal Numbers Verification form and send to me at the letterhead address above by **DATE**. You must identify the "main" site and any other site(s) which are owned or operated by your farm for the purpose of housing animals associated with your operation. Include all sited where animals are held in confinement or feeding facilities for more than 45 days in a 12 month period. This information will be used by the Department to determine if your operation needs to apply for a WPDES permit.

If you currently do not meet or exceed the 1,000 animal unit's threshold and do not expect to exceed this threshold as part of any upcoming expansions, a WPDES permit is not required. However, you must still complete and return this Animal Numbers Verification form to the Department.

If you have any questions, please contact me at PHONE or by email at EMAIL. Thank you.

Sincerely,

NAME
TITLE

Enclosure: Animal Numbers Verification form (to be returned)

LETTERHEAD HERE

DATE

NAME

FARM NAME

NAME County

ADDRESS

Dear FARM NAME:

SUBJECT: Notice of Noncompliance – Response Requested by DATE

Dear FARM NAME:

On DATE the Department of Natural Resources requested information, regarding FARM NAME, be submitted back to the Department. To date, this information has not been received. This information is necessary to determine if your farm operation has 1,000 animal units or more requiring you apply for a Wisconsin Pollutant Discharge Elimination System (WPDES) permit. The Department finds you are in noncompliance for failure to provide information required under Wisconsin Administrative Code:

- NR 243.11(2) Calculation of Animal Units: The determination as to whether an existing, proposed or expanded operation meets the criteria of a Large CAFO shall be based on the total number of animal units at the animal feeding operation...the department shall determine whether a WPDES permit is required for an operation.

Furthermore, if already at or over 1000 animals you may also be in noncompliance with Wisconsin State Statute Section 283.31(1) for discharging without a permit. If already over the 1000 animal unit threshold, it is imperative you promptly submit an application to the Department to return to compliance.

Please return the enclosed animal unit verification sheet no later than DATE. Also enclosed are preliminary permit application forms if your operation is greater than 1000 animal units. Failure to submit the requested information may result in escalated enforcement action.

If you have any questions, please contact me at PHONE or by email at EMAIL. Thank you.

Sincerely,

NAME

TITLE

Enclosures: Animal Numbers Verification form
Application form 3400-25 and 3400-25A

Notice of Violation Routing Process / Templates

All NOVs are drafted by Environmental Enforcement Staff (EE Specialist) with review by CAFO program staff.

This section includes:

- EE statewide staff map
- Case Intake Instructions (step by step in SharePoint)
- NOV routing form template example

NOTE: The “Common Permit Violations” section may be used to copy and paste violations into the NOV routing form

APPENDIX

Enclosures to be included in NON are site inspection/complaint response reports, department forms (3400-25, 3400-25A, etc.) and any relevant information necessary for permittee to return to compliance (factsheet, checklists, etc.). These may include:

List all documents...